



Sen. Edward D. Maloney

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09400SB1621sam001

LRB094 11151 RAS 46598 a

1 AMENDMENT TO SENATE BILL 1621

2 AMENDMENT NO. _____. Amend Senate Bill 1621 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing Section
5 10-20.12b as follows:

6 (105 ILCS 5/10-20.12b)

7 Sec. 10-20.12b. Residency; payment of tuition; hearing;
8 criminal penalty.

9 (a) For purposes of this Section:

10 (1) The residence of a person who has legal custody of
11 a pupil is deemed to be the residence of the pupil.

12 (2) "Legal custody" means one of the following:

13 (i) Custody exercised by a natural or adoptive
14 parent with whom the pupil resides. In cases of
15 divorced or separated parents, when only one parent has
16 legal guardianship or custody of the pupil, the school
17 district where the parent who has legal guardianship or
18 custody resides is the resident school district. When
19 both parents retain legal guardianship or custody of
20 the pupil, the resident school district is the school
21 district where the parent who provides the pupil's
22 regular, fixed night-time abode resides, provided that
23 the election of the resident school district may be
24 made only one time per school year.

1 (ii) Custody granted by order of a court of
2 competent jurisdiction to a person with whom the pupil
3 resides for reasons other than to have access to the
4 educational programs of the district.

5 (iii) Custody exercised under a statutory
6 short-term guardianship, provided that within 60 days
7 of the pupil's enrollment a court order is entered that
8 establishes a permanent guardianship and grants
9 custody to a person with whom the pupil resides for
10 reasons other than to have access to the educational
11 programs of the district.

12 (iv) Custody exercised by an adult caretaker
13 relative who is receiving aid under the Illinois Public
14 Aid Code for the pupil who resides with that adult
15 caretaker relative for purposes other than to have
16 access to the educational programs of the district.

17 (v) Custody exercised by an adult who demonstrates
18 that, in fact, he or she has assumed and exercises
19 legal responsibility for the pupil and provides the
20 pupil with a regular fixed night-time abode for
21 purposes other than to have access to the educational
22 programs of the district.

23 In cases where residency is sought under subdivision (iv)
24 or (v) of item (2) of this subsection (a), the school district
25 may require the adult caregiver of the pupil to sign a sworn
26 statement that the pupil is living with the adult caregiver and
27 that the custodial relationship is for purposes other than the
28 pupil having access to the educational programs of the school
29 district.

30 (b) Except as otherwise provided under Section 10-22.5a,
31 only resident pupils of a school district may attend the
32 schools of the district without payment of the tuition required
33 to be charged under Section 10-20.12a. However, children for
34 whom the Guardianship Administrator of the Department of

1 Children and Family Services has been appointed temporary
2 custodian or guardian of the person of a child shall not be
3 charged tuition as a nonresident pupil if the child was placed
4 by the Department of Children and Family Services with a foster
5 parent or placed in another type of child care facility and the
6 foster parent or child care facility is located in a school
7 district other than the child's former school district and it
8 is determined by the Department of Children and Family Services
9 to be in the child's best interest to maintain attendance at
10 his or her former school district.

11 (c) The provisions of this subsection do not apply in
12 school districts having a population of 500,000 or more. If a
13 school board in a school district with a population of less
14 than 500,000 determines that a pupil who is attending school in
15 the district on a tuition free basis is a nonresident of the
16 district for whom tuition is required to be charged under
17 Section 10-20.12a, the board shall notify the person who
18 enrolled the pupil of the amount of the tuition charged under
19 Section 10-20.12a that is due to the district for the
20 nonresident pupil's attendance in the district's schools. The
21 notice shall be given by certified mail, return receipt
22 requested. Within 10 days after receipt of the notice, the
23 person who enrolled the pupil may request a hearing to review
24 the determination of the school board. The request shall be
25 sent by certified mail, return receipt requested, to the
26 district superintendent. Within 10 days after receipt of the
27 request, the board shall notify, by certified mail, return
28 receipt requested, the person requesting the hearing of the
29 time and place of the hearing, which shall be held not less
30 than 10 nor more than 20 days after the notice of hearing is
31 given. The board or a hearing officer designated by the board
32 shall conduct the hearing. The board and the person who
33 enrolled the pupil may be represented at the hearing by
34 representatives of their choice. At the hearing, the person who

1 enrolled the pupil shall have the burden of going forward with
2 the evidence concerning the pupil's residency. If the hearing
3 is conducted by a hearing officer, the hearing officer, within
4 5 days after the conclusion of the hearing, shall send a
5 written report of his or her findings by certified mail, return
6 receipt requested, to the school board and to the person who
7 enrolled the pupil. The person who enrolled the pupil may,
8 within 5 days after receiving the findings, file written
9 objections to the findings with the school board by sending the
10 objections by certified mail, return receipt requested,
11 addressed to the district superintendent. Whether the hearing
12 is conducted by the school board or a hearing officer, the
13 school board shall, within 15 days after the conclusion of the
14 hearing, decide whether or not the pupil is a resident of the
15 district and the amount of any tuition required to be charged
16 under Section 10-20.12a as a result of the pupil's attendance
17 in the schools of the district. The school board shall send a
18 copy of its decision to the person who enrolled the pupil, and
19 the decision of the school board shall be final.

20 (c-5) The provisions of this subsection apply only in
21 school districts having a population of 500,000 or more. If the
22 board of education of a school district with a population of
23 500,000 or more determines that a pupil who is attending school
24 in the district on a tuition free basis is a nonresident of the
25 district for whom tuition is required to be charged under
26 Section 10-20.12a, the board shall notify the person who
27 enrolled the pupil of the amount of the tuition charged under
28 Section 10-20.12a that is due to the district for the
29 nonresident pupil's attendance in the district's schools. The
30 notice shall be given by certified mail, return receipt
31 requested. Within 10 days after receipt of the notice, the
32 person who enrolled the pupil may request a hearing to review
33 the determination of the school board. The request shall be
34 sent by certified mail, return receipt requested, to the

1 district superintendent. Within 30 days after receipt of the
2 request, the board shall notify, by certified mail, return
3 receipt requested, the person requesting the hearing of the
4 time and place of the hearing, which shall be held not less
5 than 10 nor more than 30 days after the notice of hearing is
6 given. The board or a hearing officer designated by the board
7 shall conduct the hearing. The board and the person who
8 enrolled the pupil may each be represented at the hearing by a
9 representative of their choice. At the hearing, the person who
10 enrolled the pupil shall have the burden of going forward with
11 the evidence concerning the pupil's residency. If the hearing
12 is conducted by a hearing officer, the hearing officer, within
13 20 days after the conclusion of the hearing, shall serve a
14 written report of his or her findings by personal service or by
15 certified mail, return receipt requested, to the school board
16 and to the person who enrolled the pupil. The person who
17 enrolled the pupil may, within 10 days after receiving the
18 findings, file written objections to the findings with the
19 board of education by sending the objections by certified mail,
20 return receipt requested, addressed to the general
21 superintendent of schools. If the hearing is conducted by the
22 board of education, the board shall, within 45 days after the
23 conclusion of the hearing, decide whether or not the pupil is a
24 resident of the district and the amount of any tuition required
25 to be charged under Section 10-20.12a as a result of the
26 pupil's attendance in the schools of the district. If the
27 hearing is conducted by a hearing officer, the board of
28 education shall, within 45 days after the receipt of the
29 hearing officer's findings, decide whether or not the pupil is
30 a resident of the district and the amount of any tuition
31 required to be charged under Section 10-20.12a as a result of
32 the pupil's attendance in the schools of the district. The
33 board of education shall send, by certified mail, return
34 receipt requested, a copy of its decision to the person who

1 enrolled the pupil, and the decision of the board shall be
2 final.

3 (c-10) If a school board determines that a pupil who is
4 attending school in the school district is not a resident of
5 the school district pursuant to subsection (c) or (c-5) of this
6 Section, the school board's finding of the amount of tuition to
7 be charged under Section 10-20.12a of this Code shall, within
8 35 days after the date of the board's decision, be fully
9 enforceable as a judgment in a court of competent jurisdiction.

10 (d) If a hearing is requested under subsection (c) or (c-5)
11 to review the determination of the school board or board of
12 education that a nonresident pupil is attending the schools of
13 the district without payment of the tuition required to be
14 charged under Section 10-20.12a, the pupil may, at the request
15 of a person who enrolled the pupil, continue attendance at the
16 schools of the district pending a final decision of the board
17 following the hearing. However, attendance of that pupil in the
18 schools of the district as authorized by this subsection (d)
19 shall not relieve any person who enrolled the pupil of the
20 obligation to pay the tuition charged for that attendance under
21 Section 10-20.12a if the final decision of the board is that
22 the pupil is a nonresident of the district. If a pupil is
23 determined to be a nonresident of the district for whom tuition
24 is required to be charged pursuant to this Section, the board
25 shall refuse to permit the pupil to continue attending the
26 schools of the district unless the required tuition is paid for
27 the pupil. Alternatively, if the school district does not
28 otherwise accept nonresident pupils on a tuition basis, the
29 school district may disenroll the pupil at the conclusion of
30 the school year and prior to the commencement of the following
31 school year by providing at least 10 days notice to the person
32 who enrolled the pupil in the school district. Notice must be
33 given by certified mail with return receipt requested. In
34 disenrolling the pupil, the school district does not waive its

1 right to collect tuition for the period of time in which the
2 pupil was improperly enrolled in the school district.

3 (e) Except for a pupil referred to in subsection (b) of
4 Section 10-22.5a, a pupil referred to in Section 10-20.12a, or
5 a pupil referred to in subsection (b) of this Section, a person
6 who knowingly enrolls or attempts to enroll in the schools of a
7 school district on a tuition free basis a pupil known by that
8 person to be a nonresident of the district shall be guilty of a
9 Class C misdemeanor.

10 (f) A person who knowingly or wilfully presents to any
11 school district any false information regarding the residency
12 of a pupil for the purpose of enabling that pupil to attend any
13 school in that district without the payment of a nonresident
14 tuition charge shall be guilty of a Class B ~~C~~ misdemeanor.

15 (g) The provisions of this Section are subject to the
16 provisions of the Education for Homeless Children Act. Nothing
17 in this Section shall be construed to apply to or require the
18 payment of tuition by a parent or guardian of a "homeless
19 child" (as that term is defined in Section 1-5 of the Education
20 for Homeless Children Act) in connection with or as a result of
21 the homeless child's continued education or enrollment in a
22 school that is chosen in accordance with any of the options
23 provided in Section 1-10 of that Act.

24 (Source: P.A. 89-480, eff. 1-1-97; 90-566, eff. 1-2-98.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law."